

Judge Zilly

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CANYON PARK BUSINESS CENTER
OWNERS' ASSOCIATION,

Plaintiff,

v.

PETE BUTTIGIEG in his official capacity as
Secretary of Transportation; UNITED
STATES DEPARTMENT OF
TRANSPORTATION; STEPHANIE
POLLACK in her official capacity as the
Deputy Administrator of the Federal
Highway Administration; RALPH RIZZO in his
official capacity as the Division Administrator
of the Federal Highway Administration,
Washington Division; THE FEDERAL
HIGHWAY ADMINISTRATION; ROGER
MILLAR in his official capacity as Secretary of
Washington State Department of
Transportation; and WASHINGTON
DEPARTMENT OF TRANSPORTATION,

Defendants.

CASE NO. C21-1694TSZ

**STIPULATION FOR ORDER
ESTABLISHING CASE SCHEDULE;
ORDER THEREON**

WHEREAS plaintiff Canyon Park Business Center Owners' Association has filed the above-captioned lawsuit against the U.S. Department of Transportation, the Federal Highway Administration, and officers thereof (hereafter collectively referred to as "FHWA"), and the Washington Department of Transportation and the Secretary thereof (hereafter collectively referred to as "WSDOT"), under the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701-706, *et seq.*

1 challenging the environmental documents prepared for the I-405, SR 522 Vicinity to SR 527 Express
2 Toll Lanes Improvement Project (“Project”); and

3 WHEREAS all parties hereby stipulate that the Court may enter an order as set forth below
4 which, among other things, establishes a briefing schedule for the case; and

5 WHEREAS all parties agree that the above captioned case constitutes “an action for review
6 on an administrative record” within the meaning of Fed. Rule Civ. Proc. 26(a)(1)(B)(i) and is
7 therefore “exempt” from the requirements to make initial disclosures, to participate in a discovery
8 conference and to formulate a discovery plan; and

9 WHEREAS a Certified Administrative Record was lodged with the Court on August 26,
10 2022; and

11 WHEREAS in light of the above, in lieu of a joint status report, the parties wish to propose a
12 schedule affording Plaintiff an opportunity to lodge objections to the administrative record, if any,
13 and to establish a briefing schedule for the resolution of Plaintiff’s claims upon cross-motions for
14 summary judgment.

15 NOW THEREFORE, the parties, through their respective counsel of record, do hereby
16 stipulate and agree that the Court may make and enter the following order:

17 1. By no later than October 28, 2022, Plaintiff shall request that Defendants meet and
18 confer in an effort to arrive at agreed upon resolutions of Plaintiff’s objections, if any, to the
19 Certified Administrative Record; and

20 2. By no later than December 1, 2022, Plaintiff shall file a motion to seek a
21 determination on any unresolved objections Plaintiff may have, if any, to the Certified
22 Administrative Record. The motion shall be noted for no sooner than December 16, 2022, and the
23 briefing schedule shall be in accordance with Local Rule 7(d)(3).

24 3. By no later than March 3, 2023, Plaintiff shall file a motion for summary judgment,
25 which shall be noted for May 19, 2023, and shall not exceed 24 pages in length.

26 4. By no later than March 31, 2023, Defendants FHWA and WSDOT may each file their
27 own separate memorandum in which they consolidate their arguments in opposition to Plaintiff’s
28 motion for summary judgment and in support of their own cross-motions for summary judgment.

Defendants' cross-motions shall also be noted for May 19, 2023. Neither of Defendants' memoranda may exceed 24 pages in length.

5. By no later than April 28, 2023, Plaintiff shall file memoranda each not to exceed 24 pages in length setting their consolidated replies and oppositions to Defendants' cross-motions.

6. By no later than May 19, 2023, defendants FHWA and WSDOT may file separate reply memoranda, which shall not exceed 12 pages in length each.

7. Plaintiff's motion and Defendants' cross-motions shall be noted for May 19, 2023.

8. In addition, within 10 days of the noting date, the parties shall provide the Court with excerpts of the administrative record in hard copy, which shall include the key administrative record documents upon which the parties have relied in their legal memoranda.

10. The requirement that the parties file a joint status report, as ordered by the Court on September 27, 2022 (Dkt. # 40), shall be deemed discharged by the lodging of this stipulation.

SO STIPULATED.

DATED: October 11, 2022.

VAN NESS FELDMAN LLP

/s/ Dale N. Johnson

Dale N. Johnson, WSBA No. 26629

/s/ Molly Lawrence

Molly Lawrence, WSBA No. 28236

/s/ Sophia E. Amberson

Sophia E. Amberson, WSBA No. 52528

1191 Second Avenue, Suite 1800

Seattle, WA 98101-2996

Tel: (206) 623-9372

Fax: (206) 623-4986

E-mail: dnj@vnf.com; mol@vnf.com; samberson@vnf.com

Attorneys for Plaintiff Canyon Park Business Association

//

//

//

//

1 **SO STIPULATED.**

2 DATED: October 11, 2022.

3 NICHOLAS W. BROWN
4 United States Attorney

5 /s/ Brian C. Kipnis
6 BRIAN C. KIPNIS
7 Assistant United States Attorney
8 Office of the United States Attorney
9 5220 United States Courthouse
700 Stewart Street
Seattle, Washington 98101-1271
Phone: 206 553 7970
E-mail: brian.kipnis@usdoj.gov

10 Attorneys for Federal Defendants

11 **SO STIPULATED.**

12 DATED: October 11, 2022.

13
14 ROBERT W. FERGUSON
15 Attorney General

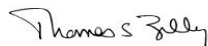
16 /s/Matthew D. Huot
17 MATTHEW D. HUOT, WSBA #40606
18 YASMINE L. TARHOUNI, WSBA #50924
ASHLEY G. S. FARHNER, WSBA #57846
Assistant Attorneys General

19 Attorneys for Washington Department of Transportation

20
21 **ORDER**

22
23 **IT IS SO ORDERED.**

24 DATED this 12th day of October, 2022.

25
26 

27
28

THOMAS S. ZILLY
Senior United States District Judge